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11 and
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23 United States Golf Association, Inc.

14 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

16 | UNITED STATES GOLF ASSOCIATION,
INC.

'08 CV 0981 JM JMA

Plaintiff,) CASE NO. 08-

Y.

19 VARIOUS JOHN and JANE DOES
20 Individuals

**AFFIDAVIT OF BARRY L.
COHEN, ESQ.**

21 | and

22 | VARIOUS XYZ ENTITIES

Defendants.

J. Barry L. Cohen, Esq., being duly sworn, hereby depose and say:

ORIGINAL

1 1. I am over eighteen (18) years of age and fully competent to make the
2 statements herein.

3 2. I am an attorney licensed to practice law in the Commonwealth of
4 Pennsylvania and the State of New Jersey, concurrent with this filing have submitted an
5 application to be admitted *pro hac vice* regarding the above-captioned matter, and am a
6 partner with the law firm of Thorp, Reed & Armstrong, LLP, counsel of record for
7 Plaintiff United States Golf Association, Inc. ("USGA" or "Plaintiff"). A substantial
8 portion of my practice centers on law of intellectual property rights.

9 3. I submit this declaration pursuant to Fed. R. Civ. P. 65(b)(1)(B) in
10 support of the USGA's Plaintiff's *Ex Parte* Motion For Temporary Restraining Order,
11 Order for Seizure of Infringing Goods and for Preliminary Injunction. I have personal
12 knowledge of the facts stated herein and could and would testify competently thereto if
13 called upon to do.

14 4. Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and the
15 Federal Trademark Act, 15 U.S.C. §§1114, 1116(d), 1125, Plaintiff USGA is applying to
16 this Court for a temporary restraining order to enjoin Defendants' unauthorized production,
17 distribution, and sale of merchandise and memorabilia bearing or referring to marks
18 identical or confusingly similar to the USGA's marks ("Unauthorized Merchandise"), and
19 an order directing the United States Marshal, his deputies, or a federal, state, or local law
20 enforcement agency or any person empowered by this Court to seize Unauthorized
21 Merchandise wherever it may be found within San Diego County, California, and/or within
22 25 miles of Torrey Pines Golf Course or at other locations within the City of San Diego

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1 identified by Plaintiff's counsel, Thorp Reed & Armstrong, LLP and Butz, Dunn &
 2 DeSantis, P.C.

3 5. Notice of this Application has not been, and should not be provided to
 4 Defendants because such notice would likely cause Defendants to destroy, move or hide
 5 their Unauthorized Merchandise or otherwise make it inaccessible to this Court.

6 6. Further, based on my prior experience in such cases, if given notice of
 7 this Application, Defendants would not appear at the hearing of the Application.

8 7. In the past, I have represented numerous trademark holders in cases
 9 similar to the instant matter in which the substantially same relief was sought. Examples of
 10 these include work for The National Football League, University of Pennsylvania, Rolex,
 11 Coach, Louis Vuitton and several musical artist, such as Tom Petty, Bruce Springsteen,
 12 Alanis Morissette, Backstreet Boys, and Eric Clapton.

13 8. In my experience, the only effective enforcement and prevention
 14 mechanism that exists to deter and prevent such unauthorized activity at such events, such
 15 as the 2008 U.S. Open, is a Temporary Restraining Order and an Order of Seizure, without
 16 providing advanced notice to the persons selling the counterfeit merchandise.

17 I verify under penalty of perjury that the foregoing statements are true and correct
 18 and signed as of the date reflected below in Philadelphia, County of Philadelphia,
 19 Pennsylvania.

20 _____
 21 Barry L. Cohen
 22

23 Sworn to and subscribed before

24 me this 30th day of MAY, 2008.

